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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,425	08/13/2003	Robert Bores		9864

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05/05/2005

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EXAMINER

WONG, STEVEN B

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,425

Applicant(s)

BORES, ROBERT

Examiner

Steven Wong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-32 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Marchessault et al. (6,357,642). Regarding claim 1, Marchessault et al. discloses an assembly comprising a portion (12) that is inherently capable of supporting a cigar. The portion is movable between a first stored position (Figure 4) and a second open position (Figure 3).

Regarding claim 2, the portion (11) is inherently capable of repairing divots.

Regarding claims 3-5, Marchessault et al. includes a ball marker that is magnetically attracted to a part (13) of the cigar rest portion. Note column 1, lines 52-62 and column 2, lines 20-30 and 47-56 stating that both the ball marker and the part (13) of the cigar rest portion are made from a magnetic material.

Regarding claim 6, note Figure 1 showing the ball marker (14) with a diameter greater than the width of the cigar rest portion.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blomgren (5,755,629). Regarding claim 7, Blomgren discloses a golf accessory comprising a ground repair portion having a pair of spaced prongs (16) and a handle portion (18) coupled to the ground repair portion. The handle portion includes a pair of members (extending along opposite sides of member 22) that define an opening that receives a member (24) that is pivotally coupled therebetween. The member (24) is obviously capable of resting a cigar thereon.

Regarding claim 13, note Figure 1 showing the opening that receives the member (24). The bottom portion of the member appears to be generally triangular in shape. In the alternative, it would have been obvious to one of ordinary skill in the art to form the opening generally triangular in shape in order to better receive the generally triangular member (22).

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blomgren (5,755,629) in view of Korte-Jungermann (5,403,006). Korte-Jungermann discloses a golf tee arrangement wherein the tee includes a hollow portion for receiving a magnet (17). The tee is used with a golf club handle (3) having a corresponding magnet (7) for setting the tee and retrieving the tee. It would have been obvious to one of ordinary skill in the art to provide the golf tee (22) of Blomgren with a magnet in a hollow portion and use the golf club handle of Korte-Jungermann with the accessory of Blomgren in order to facilitate the setting and retrieving of the accessory of Blomgren in the ground.

Allowable Subject Matter

6. Claims 9-12 and 14-32 appear to read over the prior art of record.

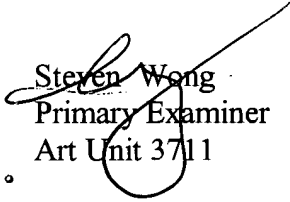
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
May 2, 2005